

IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE: David Wayne Piper
810 Martin St
Houston, TX 77018

CHAPTER 13

CASE NO. 17-32826-H1

DEBTOR

MOTION TO DISMISS OR CONVERT

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

David G. Peake, Chapter 13 Trustee moves the court to Dismiss or Convert the above-referenced case for the following reasons:

- X The Chapter 13 Plan must be amended to provide for the claims of the secured and priority Creditors in full within the terms of the Plan.
- X Payments due pursuant to U.S.C. § 1326(a)(1) have not been made.
- Debtors failed to appear for the Meeting of Creditors and this constitutes a failure to appear in proper prosecution of the case for purposes of subsequent eligibility under 11 U.S.C. § 109.
- X The Debtors have not filed their Federal Income Tax return for the following years: UNFILED 2011, 2012, 2013, 2014, 2015, 2016 (FICA), 2014, 2015, 2016 (FUTA) 2014, 2015, 2016 (INCOME). Therefore the Debtors are not able to meet the burden of proving that the Plan complies with 11 U.S.C. § 1322 (a) (2).
- The Debtors have caused unreasonable delay that is prejudicial to the Creditors.
- X Other: FAILED TO FILE UNIFORM PLAN, FAILED TO PROVIDE PROOF OF SOCIAL SECURITY TO THE TRUSTEE. FAILED TO PROVIDE COPY OF 2016 INCOME TAX RETURN AND TAX APPRAISALS FOR ALL REAL PROPERTY TO THE TRUSTEE. FAILED TO AMEND SCHEDULE I TO REFLECT ACCURATE EMPLOYMENT AND INCOME. FAILED TO SUBMIT TO AN ACH, EFT OR EMPLOYER ORDER.

A HEARING WILL BE CONDUCTED ON THIS MATTER ON JULY 25, 2017 AT 10:00 AM IN U.S. BANKRUPTCY COURT, 515 RUSK, ROOM 404, 4TH FLOOR, HOUSTON, TX 77002-0000. IF YOU WANT A HEARING, YOU MUST REQUEST ONE IN WRITING. YOU MUST FILE YOUR RESPONSE WITH THE CLERK OF THE BANKRUPTCY COURT WITHIN TWENTY ONE DAYS AS FOLLOWS: 1. FILE A RESPONSE WITHIN TWENTY ONE DAYS THAT SHOWS THAT THE ABOVE-CITED DEFICIENCY HAS BEEN CURED, OR 2. FILE A RESPONSE WITHIN TWENTY ONE (21) DAYS THAT SHOWS THAT THE COURT SHOULD ALLOW YOU ADDITIONAL TIME TO CURE THE ABOVE-CITED DEFICIENCY. OTHERWISE, THE COURT MAY TREAT THE PLEADING AS UNOPPOSED AND DISMISS OR CONVERT YOUR CASE. IF THE DEFICIENCY IS FOR FAILURE TO FILE TAX RETURNS AND THE CASE IS DISMISSED, YOU WILL NOT BE ALLOWED TO FILE ANOTHER BANKRUPTCY CASE UNTIL ALL OF YOUR RETURNS ARE FILED.

Wherefore, the Trustee requests that the case be dismissed or converted to Chapter 7, whichever shall be determined in the best interest of creditors.

Dated: June 30, 2017

/s/ David G. Peake

David G. Peake
Standing Chapter 13 Trustee

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Trustee's Motion to Dismiss Case has been served electronically on all parties requesting electronic notice and has been served on the listed parties (if listed) by mailing a copy of same to the address listed below via first class mail June 30, 2017.

Electronically signed by
David G. Peake, Chapter 13 Trustee

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ORDER OF DISMISSAL

The Court has considered the Trustee's Motion to Dismiss and any response or opposition thereto. The court is of the opinion that proper notice to all parties in interest has been given and that the Motion should be granted. It is therefore

ORDERED that this case is dismissed.

Dated: _____

United States Bankruptcy Judge